

CITY OF OREM  
SPECIAL CITY COUNCIL MEETING  
56 North State Street Orem, Utah  
May 23, 2014

**2:30 P.M. SPECIAL SESSION**

CONDUCTING	Mayor Richard F. Brunst, Jr.
ELECTED OFFICIALS	Councilmembers Hans Andersen, Margaret Black, Mark E. Seastrand, and David Spencer  Tom Macdonald and Brent Sumner participated electronically.
APPOINTED STAFF	Brenn Bybee, Assistant City Manager; and Steven Downs, Assistant to the City Manager
FIRST DIGITAL STAFF	Wesley McDougal

**SCHEDULED ITEMS**

**2:30 P.M. DISCUSSION**

**Fiber Network Alternatives – First Digital**

Mayor Brunst allowed time for introductions. He said Wesley McDougal and First Solutions had approached the City to provide information on their possible alternative for the fiber network.

Mr. McDougal gave background on the company First Digital, saying it was a local Utah-based company operating out of Salt Lake City. First Digital had been in business since 2000 and was part of the Boyer Gardner companies, two of the largest private developers in the Intermountain West and had invested a great deal of money in the area. Some of the projects they had participated in included the Gateway Mall, the District, the Junction, the entrance to University Parkway, and the new Adobe building in Lehi. First Digital began in conjunction with the Gateway, a mixed-use development. First Digital pulled fiber and provided services across that development network. First Digital had since built out and was reported to have a fiber network that ran from Brigham City down to St. George.

Mrs. Black asked how many customers First Digital served. Mr. McDougal said First Digital served an array of both residential and business customers. The focus had been on residential development, particularly subdivisions, multifamily dwellings, condominiums, and apartments. A lot of work had been done with Ivory Homes, as well as other large companies in Orem.

Mayor Brunst asked if First Digital would be servicing the new high-density housing planned at the University Mall. Mr. McDougal said it would. First Digital did compete for the opportunity to do business with Ivory Homes and was the exclusive fiber provider for Ivory's corporate side of the business.

Mr. Macdonald asked how long First Digital had been working with Ivory Homes. Mr. McDougal said the working relationship had gone on for approximately ten years.

Mr. McDougal said First Digital had between 6,000 and 7,000 resident users, but that the majority of the company's revenue came from its business customers.

Mrs. Black asked how many business customers First Digital had. Mr. McDougal said there were about 4,000 business customers.

Mayor Brunst said customer size was comparable to that of UTOPIA and asked what First Digital's revenues were. Mr. McDougal said that was information protected under GRAMA, but the information could be obtained by filing an official record request.

Mr. Macdonald said he hoped First Digital was significantly better managed than UTOPIA was.

Mayor Brunst asked (1) where First Digital headquarters were, (2) how many employees worked for First Digital, (3) if First Digital was profitable.

Mr. McDougal said First Digital operated mainly out of space at the Gateway in Salt Lake City and had roughly fifty employees. Mr. McDougal said First Digital ran "lean" with strong operating metrics. It had been profitable since 2001, with fifty-six consecutive quarters of reported revenue growth.

Mayor Brunst noted that Orem had a nondisclosure agreement with Macquarie with a reprieve from that for a short period of time to explore other alternatives. To the Mayor's knowledge, Orem was the only city exploring alternatives.

Mr. Seastrand asked what First Digital's solution would be.

Mr. McDougal said First Digital had a flexible solution that would suit every city differently, which would allow the cities to have a choice. The solution would not require a utility fee.

Mayor Brunst asked if it would be an open-access or closed-access setting. Mr. McDougal said they had a patent-pending, open-choice model that was protected by trade secret. On the business side, the network would always be open-access.

Mayor Brunst asked if First Digital was an Internet Service Provider (ISP) as well, and Mr. Seastrand questioned if First Digital was riding on UTOPIA.

Mr. McDougal said First Digital was an ISP, and it was riding on UTOPIA. He indicated the only services provided on UTOPIA were business services. There were no residential services being provided by First Digital on UTOPIA.

Mr. McDougal said First Digital was already building fiber in the streets in the private sector. First Digital saw it as an opportunity.

Mrs. Black asked if First Digital was proposing a ubiquitous build-out. Mr. McDougal said ubiquity would be an option.

Mrs. Black wondered what the take rates were.

Mr. McDougal said take rates depended on success demand. First Digital anticipated a 50 percent take rate before building fiber to a certain area. First Digital was operating off a closed model in the residential setting. Where First Digital had its own fiber down, there was a substantial amount of residential customers operating off a closed model.

Mr. Seastrand asked what First Digital saw happening with UTOPIA, and what would happen to the existing UTOPIA debt. Mr. McDougal said First Digital would essentially take over the UTOPIA operation, with all the operating costs.

Mayor Brunst said First Digital could do a buyout, but it might not be beneficial due to interest rates and credit swaps. He suggested the purchase could be a “lease-to-own” kind of deal.

Mrs. Black asked if First Digital had addressed parity issues between the cities. Mr. McDougal said he thought so, but the details of the information would be divulged with a confidentiality agreement.

Mrs. Black said she gathered that Mr. McDougal had a plan but was not able to share it without a nondisclosure agreement.

Mr. McDougal agreed, saying he had to make sure the plan was presented in a formal nature, where trade secrets were not given away.

Mr. Bybee said he assumed First Digital had a flexibility solution for every city. Mr. McDougal said there would be flexibility among the member cities. First Digital was looking at several other possible models in addition to a utility fee-based model.

Mrs. Black asked Mr. McDougal for other examples of possible models. Mr. McDougal said a success-based, man-driven network was another option, similar to the Google model.

Mrs. Black observed that no guarantee of ubiquity would exist with a strictly success-based build out.

Mayor Brunst said if a neighborhood wanted the services, the service would be built out to those that wanted it, which would be like a ubiquitous solution based on demand.

Mr. Bybee asked if First Digital would pass every home and just not necessarily bring the service to the house. Mr. McDougal said that was not the case, that an imbedded footprint had already been established. There were 16,000 across UTOPIA that had been connected, with 11,000 customers who had subscribed.

Mr. Bybee asked who First Digital presumed would own the network. Mr. McDougal said First Digital would see a true partnership and would like to own the network.

Mayor Brunst said it would have to be a partnership if First Digital didn't buy the cities out upfront.

Mr. McDougal said that, in the long term, First Digital would want to own the network, but for the short term it would probably be a partnership.

Mayor Brunst asked if funding and availability of finances was in order for First Digital. Mr. McDougal said it would have the money to do all the ubiquitous utility build across all the cities.

Mayor Brunst said he was in no hurry to build out the network and asked what First Digital's timing was on a potential build out.

Mr. McDougal said if everyone wanted the utility and it was success based, the build out could be done as quickly as possible. First Digital would also keep up with the technology due to the living nature of the relationship.

Mrs. Black stated that even if Orem was partners with First Digital in the network ownership, First Digital would want to run the operations of the network. Mr. McDougal concurred, saying that was First Digital's expertise to run and operate the network.

Mayor Brunst said it was hard for cities to run a technology business. There were eleven different entities involved, each with different interests and opinions.

Mr. Downs reflected that it was tough, even for City employees, to work under seven City Council bosses.

Mrs. Black said Mr. McDougal represented a model that would tailor to a consortium of cities legally bound to work together. She asked what would happen if the cities began to split-up and do its own thing.

Mr. McDougal said cities could make decisions within the individual cities. There would be nothing that prevented the cities to have a little bit different business model.

Mayor Brunst said one boss would be more successful than having eleven bosses, which was what was going on at that point. He said the board of directors all came from different viewpoints. If one company that was already in the business took over operations, it would bring unity.

Mr. Seastrand asked about day-to-day operations. Mr. McDougal said First Digital had the expertise to take it over.

Mrs. Black said municipalities had different hurdles to jump than private companies like First Digital, did.

Mayor Brunst said First Digital had had success over the life of its business, and that UTOPIA had seen loss over the life of its business.

Mr. Bybee asked if First Digital would immediately take over the operation with the current loss. Mr. Downs then asked what risks First Digital would take on.

Mr. McDougal said First Digital would take on the loss and could add value to the action of taking it over. First Digital could then grow the network.

Mayor Brunst asked what would happen with UTOPIA, the leased building, the vehicles, the equipment, the employees, and if First Digital would offer jobs to UTOPIA employees.

Mr. McDougal said First Digital was already an operating company with an accounting department, a marketing department, a technology department, and a network service department. First Digital also had management that could be leveraged that did not require replication.

Mr. Seastrand said First Digital would need to scale up to serve the current 11,000 customer base. He asked how First Digital being an ISP blended with the open-network customer model.

Mr. McDougal said First Digital would use Xmission and Veracity networks, although service there was limited. First Digital had a strong incentive for make sure the existing 11,000 customers stayed on the network.

Mrs. Black said she wanted to see First Digital's open-access model.

Mr. McDougal said at that point First Digital did not provide any residential services in the current UTOPIA cities, though there were some business services.

Mr. Downs asked about connecting to homes, the cost and the rates.

Mr. McDougal said First Digital would bear the cost. First Digital would build the service to the customers who wanted it. Mr. McDougal added that one of the main problems to date was the disconnect between the customer and the network provider.

Mr. Andersen asked if the fiber UTOPIA was using was considered good fiber. Mr. McDougal said he had not looked at UTOPIA's fiber, but typically the equipment running on the fiber was what needed upkeep and refreshing. The fiber was a valuable asset, because it cost a lot of money to install. The equipment was not as expensive but did not have as long of a shelf life.

Mr. Seastrand asked what Mr. McDougal thought of the public-private partnership (PPP) concept. Mr. McDougal said fiber was a superior product that was in demand.

Mrs. Black said there were a lot of people who wanted to fiber in northeast Orem, but the biggest issue there was the rock content in the ground.

Mr. McDougal said he thought First Digital had a solution, and there were ways of getting the fiber to those who wanted it. A special assessment area could be organized to get the service into an area.

Mr. Spencer left the meeting at 3:25 p.m.

Mrs. Black asked how to get the system built. Mr. McDougal said First Digital would suggest Orem get the critical mass in the neighborhoods to sign up so First Digital would build. There would have to be a 50 percent presubscribed take rate for First Digital to begin.

Mayor Brunst suggested a formula where if only 30 percent wanted it, then an additional fee could be assessed to make up the difference. Mayor Brunst then said there was a lot of “dark” fiber that wasn’t being used that could be leased to businesses.

Mr. McDougal said Orem had a big asset that was not being utilized. First Digital specialized in making assets produce.

Mr. Downs asked Mr. McDougal about fiber being an aging resource compared to wireless. Mr. McDougal said fiber was expensive. Some big companies had employed wireless models, but ultimately those were switched over to fiber. Mr. McDougal said it was safe to say fiber was not going away.

Mayor Brunst questioned, if Orem was to work with First Digital, would First Digital consider implementing Wi-Fi throughout Orem, such as providing hot spots at city parks and other city-owned facilities.

Mr. McDougal said it would be possible that, if First Digital did that, then it would run it like a business.

Mayor Brunst asked if First Digital had evolved over the ten years as technology had changed. Mr. McDougal said it had. First Digital had evolved in bandwidth and had changed from copper to fiber. He said the need for increased internet speed had also evolved.

Mayor Brunst asked if First Digital used micro trenching or if the customer was willing to dig the trench. Mr. McDougal said that could be a solution to bring the price point down.

Mrs. Black asked how First Digital’s idea was different than the existing UIA organization. Mr. McDougal said First Digital was a successful existing company, so it would be easier to come in and take over because the business aspect that UIA lacked was already in place.

Mrs. Black asked what kind of marketing First Digital would use. Mr. McDougal said he could not share that information.

Mrs. Black then asked if First Digital had ever approached UTOPIA before the Macquarie proposal was initiated. Mr. McDougal said First Digital had talked with some.

Mr. Bybee asked if Mr. McDougal was going to present to the UTOPIA board. Mr. McDougal said he had requested to present, but nothing had been confirmed on the agenda.

Mr. Downs asked if the full proposal would be given to the UTOPIA board. Mr. McDougal said it was.

Mrs. Black rephrased a previous question as to whether First Digital would set up the network as an open network or as a closed network. Mr. McDougal said the commercial end would be set up as an open network, but the residential portion may be different in that the service would be

leased, not sold to a wholesaler. Mrs. Black wondered if it would fit into the bounds that the City was held to by the legislature and suggested the information be run past the City attorney.

Mr. Andersen asked if Mr. McDougal knew of any government-run operations that were successful. Mr. McDougal said to his knowledge there were approximately 115 municipal fiber networks in United States, and success of those networks was likely measured in many different ways. The main issue was that municipalities would not know what to do after the fiber was installed in the area. The maintenance and operation was the difficult piece of the fiber puzzle. If the municipalities had to pull money out of one pocket to put in the other pocket, then the model was likely unsuccessful.

Mr. Seastrand said the underutilization was driving the unsuccessfulness of the networks, and that same thing could be seen in UTOPIA. He said he liked the concept of the open network, from cost and competition stand points.

Mr. McDougal stated he was anxious to share the entire proposal First Digital had been working on. He said First Digital was hopeful to be able to share the proposal to the UTOPIA board.

Mayor Brunst said that due to the nature of previous agreements, the opportunity for First Digital to share its proposal to the board may not come to fruition.

Mayor Brunst then gave background on how Orem had been granted the opportunity to explore fiber network alternatives to make an informed decision on Macquarie's Milestone One. Mayor Brunst suggested planning a meeting with Mr. McDougal and Mr. Davidson to explore the information First Digital had to provide.

Mrs. Black asked if the other Council members would like to be active participants in furthering the discussions with Frist Digital. Mayor Brunst said that could be possible.

The Councilmembers all said they were interested in whatever further information and facts Mr. McDougal could provide.

Mr. Macdonald said he was interested in receiving some kind of summary of what First Digital was offering.

Councilmembers Black, Sumner, Seastrand, and Andersen all voiced interest in being present at any future briefings with First Digital.

## **ADJOURNMENT**

The meeting adjourned at 4:20 p.m.

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Donna R. Weaver, City Recorder

Approved: June 17, 2014

